

BOARD of SUPERVISORS



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June 22, 2021

File No. 210566

Lisa Gibson
Environmental Review Officer
Planning Department
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103

Dear Ms. Gibson:

On June 15, 2021, Supervisor Peskin submitted the following substitute legislation:

File No. 210566

Ordinance adopting regulation of vending within the jurisdiction of the Port of San Francisco, requiring permits, and authorizing permit fee and enforcement actions in the Port Code; requiring the Port and the Department of Public Health to report to the Board of Supervisors about regulatory implementation and health and safety enforcement; amending provisions of the Port and Public Works Codes, and repealing peddler regulations in the Police Code, to comply with state law regarding sidewalk vending; amending provisions of the Administrative, Business and Tax Regulations, Health, and Transportation Codes to conform with state law and new Port Code regulations regarding vending; and adopting findings under the California Environmental Quality Act.

This substitute legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning

1 [Various Codes - Mobile Vendor Regulation]

2

3 **Ordinance adopting regulation of vending within the jurisdiction of the Port of San**
4 **Francisco, requiring permits, and authorizing permit fee and enforcement actions in the**
5 **Port Code; requiring the Port and the Department of Public Health to report to the**
6 **Board of Supervisors about regulatory implementation and health and safety**
7 **enforcement; amending provisions of the Port and Public Works Codes, and repealing**
8 **peddler regulations in the Police Code, to comply with state law regarding sidewalk**
9 **vending; amending provisions of the Administrative, Business and Tax Regulations,**
10 **Health, and Transportation Codes to conform with state law and new Port Code**
11 **regulations regarding vending; and adopting findings under the California**
12 **Environmental Quality Act.**

13 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
14 **Additions to Codes** are in *single-underline italics Times New Roman font*.
15 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
16 **Board amendment additions** are in double-underlined Arial font.
17 **Board amendment deletions** are in ~~strikethrough Arial font~~.
18 **Asterisks (* * * *)** indicate the omission of unchanged Code
19 subsections or parts of tables.

18 Be it ordained by the People of the City and County of San Francisco

19 Section 1. Environmental Findings.

20 The Planning Department has determined that the actions contemplated in this
21 ordinance comply with the California Environmental Quality Act (California Public Resources
22 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
23 Supervisors in File No. 210566 and is incorporated herein by reference.

24

25

1 Section 2. General Findings.

2 (a) The Port of San Francisco (“Port”) manages the waterfront as the gateway to a
3 world-class city, and advances environmentally and financially sustainable maritime,
4 recreational, and economic opportunities to serve the City and County of San Francisco
5 (“City”), the Bay Area, and California.

6 (b) The Port is home to many of San Francisco’s leading visitor destinations, and
7 welcomed over 24 million visitors annually before the COVID-19 pandemic.

8 (c) In furtherance of the City’s recovery from the pandemic, the Port is committed to
9 supporting the growth of waterfront jobs and providing space for new and expanding
10 businesses on Port property, while maintaining public health and safety as well as scenic and
11 recreational opportunities.

12 (d) Vending, because it has a relatively low barrier to entry, encourages
13 entrepreneurship, represents a significant sector of San Francisco’s local economy, and
14 provides economic opportunity for people to support themselves and their families, which is a
15 City priority.

16 (e) A well-regulated vending program would ensure the Port’s streetscape can
17 remain a vibrant and dynamic marketplace, with unparalleled historic, scenic, and recreational
18 value that can be safely enjoyed by all. Regulations are needed for several reasons: to
19 accommodate vending, including vendors’ equipment, while safeguarding pedestrian and
20 chair-user movement on sidewalks, streets, and other public spaces; to prevent unsanitary
21 conditions and ensure trash and debris are removed by vendors; and to protect the scenic
22 and natural character of the Port of San Francisco’s parks and waterfront, and the recreational
23 opportunities the areas provide.

24 (f) In 2018, then-Governor Jerry Brown signed Senate Bill 946 (“SB 946”), which
25 decriminalized street vending across California and constrained local regulatory authority. SB

1 946 seeks to create entrepreneurial and economic development opportunities for immigrant
2 and low-income communities, increase access to desired goods, contribute to a safe and
3 dynamic public space, and promote the safety and welfare of the public by encouraging local
4 authorities to support and properly regulate vending.

5 (g) The Board of Supervisors (“Board”) seeks to prioritize health and safety, protect
6 the scenic and natural character of our City’s parks and open spaces, and the waterfront,
7 while expanding economic opportunities for those who aspire to vend lawfully in a manner
8 consistent with SB 946. The Board recognizes that regulation of vending benefits the City as
9 a whole, as it leads to orderly commerce and safeguards public health. The Board seeks to
10 provide vendors with the ability to operate in a safe, professional, and meaningfully
11 enforceable manner that enhances the visitor experience at the waterfront and provides
12 increased economic opportunities; and

13 (h) The Board seeks to create a vending program which provides permitting and
14 regulation of street vendors on Port property.

15
16 Section 3. The Port Code is hereby amended by adding Article 2A, to read as follows:

17 **ARTICLE 2A: PERMIT REGULATIONS FOR MOBILE VENDORS**

18 **SEC. 2A.1. DEFINITIONS.**

19 *For the purpose of this Article 2A, the following words and phrases have the following*
20 *meanings:*

21 **Administrative Citation.** *An administrative fine for a violation of this Article 2A, as described*
22 *in Section 2A.8(b).*

23 **Certified Farmers’ Market.** *A farmers’ market operated in accordance with Health Code*
24 *Section 440(d) and with Chapter 10.5 (commencing with section 47000) of Division 17 of the*
25 *California Food and Agricultural Code, as each may be amended, and any implementing regulations.*

1 **City.** The City and County of San Francisco.

2 **Department.** The Port.

3 **Director.** The Executive Director of the Port, or the Executive Director's designee.

4 **Enforcement Official.** Officers, employees, and contractors of the Port, and of such other
5 departments and agencies of the City, as designated by the Director.

6 **Food.** Any food, foodstuffs, or beverage for human consumption, and is inclusive of the
7 definitions of "Food" in Health Code Section 440(b) and in California Health and Safety Code section
8 113781, as each may be amended.

9 **Merchandise.** Any item that is not Food and that is not an art or craft regulated under Article
10 24 (Regulating Street Artists) of the Police Code.

11 **Mobile Vendor.** A person or entity that Vends Food or Merchandise from a pushcart, pedal-
12 driven cart, wagon, or other nonmotorized conveyance, or from one's person or a stand, display,
13 showcase, table, rack, or other movable structure. The term Mobile Vendor is comprised of each
14 Roaming Mobile Vendor and each Stationary Mobile Vendor, and includes but is not limited to a
15 Sidewalk Vendor as defined in California Government Code section 51036, as it may be amended from
16 time to time. If a Mobile Vendor Vends as an employee or agent of another person or entity, that
17 person or entity is also a Mobile Vendor.

18 **Port.** The Port of the City and County of San Francisco. Also, designated as the Department.

19 **Roaming Mobile Vendor.** A Mobile Vendor that moves from place to place and stops
20 intermittently to complete a Vending transaction.

21 **Rules and Regulations.** The Rules and Regulations of Mobile Vendors as described in Section
22 2A.5 of this Article.

23 **Stationary Mobile Vendor.** A Mobile Vendor that Vends from one or more fixed locations.

1 **Swap Meet.** A swap meet operated in accordance with Article 6 (commencing with section
2 21660) of Chapter 9 of Division 8 of the California Business and Professions Code, as it may be
3 amended, and any regulations adopted in accordance with that chapter.

4 **Vend (and variations such as Vends, Vending).** To sell, offer for sale, expose or display for
5 sale, solicit offers to purchase, or barter Food or Merchandise. Vending includes offering free samples
6 of Food or Merchandise that are also for sale, or negotiating fees for Food or Merchandise.

7 **SEC. 2A.2. PERMIT REQUIRED; MANDATORY DISPLAY.**

8 (a) No person may Vend on any property within the regulatory jurisdiction of the Port,
9 including a public right-of-way (as that term is defined in Public Works Code Section 2.4.4) or any
10 other street, sidewalk, alley, walkway, or pedestrian path available to the public, without first having
11 obtained either a Roaming Mobile Vendor permit or a Stationary Mobile Vendor permit pursuant to
12 this Article 2A.

13 (b) A Mobile Vendor shall prominently display a Mobile Vendor permit that corresponds
14 with the Mobile Vendor's business activity while Vending in accordance with this Article 2A.

15 **SEC. 2A.3. MOBILE VENDER PERMIT TYPE.**

16 (a) Each Mobile Vendor permit must identify whether the permit authorizes the permittee to
17 Vend Food, Vend Merchandise, or Vend both Food and Merchandise.

18 (b) The Department may issue a time-limited Mobile Vendor permit to a nonprofit
19 corporation that is exempt from federal taxation under 26 U.S.C. section 501(c)(3), as it may be
20 amended, and which permit may apply to multiple Mobile Vendors as further described in the permit.

21 **SEC. 2A.4. PERMIT APPLICATION; FEE.**

22 (a) **Department Permit.** The Department shall establish a uniform application process
23 through which a Mobile Vendor may request, and upon approval receive, a Mobile Vendor permit. The
24 permit application shall require:

25 (1) The name, phone number, and current mailing address of the Mobile Vendor.

1 (2) A description of the Food and/or Merchandise to Vend.

2 (3) A certification by the Mobile Vendor that to their knowledge and belief, the
3 information submitted for the permit application is true.

4 (4) Proof of Identity, as described in Administrative Code Section 95.2 and as it may
5 be amended, of the Mobile Vendor.

6 (5) The California seller's permit number (California Department of Tax and Fee
7 Administration sales tax number), if applicable, of the Mobile Vendor.

8 (6) If the Mobile Vendor is an agent of an individual, company, partnership, or
9 corporation (each a "principal"), the name and business address of the principal.

10 (7) Any other information deemed relevant by the Department.

11 **(b) Additional Permit Conditions.**

12 (1) Each Mobile Vendor shall register with the Tax Collector pursuant to Article 12
13 (Business Registration) of the Business and Tax Regulations Code, if applicable. Separate fees may
14 apply and be payable to the Tax Collector.

15 (2) Each permit that applies to a Mobile Vendor that uses an energy source,
16 including propane, butane, or battery, is conditioned on the Mobile Vendor obtaining approval from
17 the Port Fire Marshal and complying with sections of the Fire Code that apply to the use of flammable
18 gas, flammable liquids, compressed gas, open flames, and other energy sources. Separate fees may
19 apply and be payable to the Port Fire Marshal.

20 (3) Each permit for Food Vending is conditioned on the Mobile Vendor obtaining a
21 permit to operate a food facility from the Department of Public Health pursuant to Health Code Section
22 452, as it may be amended. Separate fees may apply and be payable to the Department of Public
23 Health.

24 (4) Each Mobile Vendor permit issued pursuant to this Article 2A and the approval,
25 as applicable, of the Tax Collector (issuance of business registration certificate; see subsection (b)(1)),

1 Port Fire Marshal (see subsection (b)(2)), and the Department of Public Health (see subsection (b)(3)),
2 shall authorize inspection by the City of the Mobile Vendor's operations at any time during operating
3 hours.

4 (5) The applicable conditions of this subsection (b) are preconditions to the issuance
5 of a Mobile Vendor permit. Lapse or revocation of approvals, as applicable, from the Tax Collector,
6 Port Fire Marshal, or Department of Public Health shall, by operation of law, automatically invalidate
7 any Mobile Vendor permit without further action by the Department.

8 (c) **Permit Fee.** The Department shall identify the reasonable regulatory costs for the
9 administrative enforcement and any adjudication of this Article 2A, including but not limited to the
10 Department's costs to issue permits, perform investigations, conduct inspections, issue administrative
11 citations or other enforcement actions, and audit permittees. The Department shall charge applicants
12 for each Mobile Vendor permit and permit renewal an amount that does not exceed the reasonable
13 regulatory costs described in this subsection (c), and may include the actual costs that other agencies,
14 boards, commissions, or departments of the City incur in connection with the processing or
15 administration of this Article 2A, which fee shall be waived in accordance with California Business and
16 Professions Code section 16102, as it may be amended, and as applicable. The fee set forth in this
17 subsection (c) shall be approved by the Port Commission and may be adjusted each year, without
18 further action by the Board of Supervisors. In addition, separate annual fees may apply and be payable
19 to the Tax Collector, Department of Public Health, and the Port Fire Marshal for any approvals
20 required by each department.

21 (d) **Permit Expiration.** Each Mobile Vendor permit shall expire one year after issuance by
22 the Department unless renewed or unless the particular circumstances warrant a permit term of less
23 than one year.

24 (e) **Permit Renewal.**

1 (1) Each Mobile Vendor permit may be renewed annually so long as the Mobile
2 Vendor remains in compliance with this Article 2A, including payment of all fees due to the City and
3 compliance with the Good Neighbor Policies.

4 (2) Each Mobile Vendor permit renewed by the Department is not operative unless
5 and until the Mobile Vendor has within 30 days of the date of renewal obtained approvals, as
6 applicable, from the Port Fire Marshal and the Department of Public Health.

7 **(f) Application Denial; Appeal.**

8 (1) The Department may reject an application for Mobile Vendor permit for any of
9 the following reasons: (A) the applicant failed to provide any required information or prerequisite
10 approvals identified in this Section 2A.4, or provided incorrect or incomplete information, and failed to
11 correct the application within a reasonable time identified by the Department; (B) the applicant
12 knowingly presented false and material information or knowingly omitted material information; (C) the
13 applicant previously received a permit, which permit was revoked pursuant to Section 2A.8, and the
14 revocation occurred within one year of the application; (D) the applicant submitted a substantially
15 similar application that was rejected within the past year; or (E) good cause, including but not limited
16 to violations of federal, state, or City law that in the Department's judgment are relevant to whether the
17 applicant would perform as a Mobile Vendor in a lawful manner.

18 (2) The rejection of an application for a Mobile Vendor permit may be appealed in
19 writing to the Director within 10 days of rejection. The Director may investigate the rejection and
20 consider any claims by the applicant, and shall either affirm or reverse the rejection within 30 days of
21 receipt of the written appeal.

22 **SEC. 2A.5. VENDING RESTRICTIONS; DELEGATION OF AUTHORITY.**

23 (a) Certified Farmer's Market or Swap Meet. No person, without written approval of the
24 Director, may Vend within the immediate vicinity of a permitted Certified Farmers' Market or a
25 permitted Swap Meet during the operating hours of that Certified Farmers' Market or Swap Meet.

1 **(b) Temporary Special Permit.** *No person, without written approval of the Director, may*
2 *Vend within the immediate vicinity of a temporary special permit issued by the City, or any of its*
3 *departments or agencies, that authorizes the temporary use of, or encroachment on, the sidewalk or*
4 *other public area, including an encroachment permit, special event permit, or temporary event permit*
5 *for purposes including filming, parades, or outdoor concerts. This prohibition against Vending shall*
6 *be effective only for the limited duration of the temporary special permit. Any notice, business*
7 *interruption mitigation, or other rights provided to affected businesses or property owners under the*
8 *temporary special permit must also be provided to any Mobile Vendor specifically permitted by the*
9 *Director to operate in the immediate vicinity of the temporary special permit.*

10 **(c) Rules and Regulations Authorized.**

11 **(1)** *The Department, and any other agency (including but not limited to a*
12 *department or commission) of the City that governs the use of public property (including but not limited*
13 *to the Port Commission and its Executive Director), may adopt additional requirements regulating the*
14 *time, place, and manner of Vending if the requirements are directly related to objective health, safety,*
15 *or welfare concerns. Such Rules and Regulations may impose, but are not limited to imposing, (A)*
16 *further requirements to maintain sanitary conditions; or (B) requirements necessary to ensure*
17 *compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336), as amended, and*
18 *other disability access standards.*

19 **(2)** *The Department, and any other agency (including but not limited to a*
20 *department or commission) of the City that governs the use of public property (including but not limited*
21 *to the Port Commission and its Executive Director) may prohibit Stationary Mobile Vendors from*
22 *Vending in a park if the operator of the park has signed an agreement for concessions that exclusively*
23 *permits Vending of Food, Merchandise, or both by one or more concessionaires.*

24 **(3)** *The Department, and any other agency (including but not limited to a*
25 *department or commission) of the City that governs the use of public property (including but not limited*

1 to the Port Commission and its Executive Director), may adopt additional requirements regulating the
2 time, place, and manner of Vending in one or more parks if the requirements are: (A) directly related to
3 objective health, safety, or welfare concerns; or (B) necessary to ensure the public’s use and enjoyment
4 of natural resources and recreational opportunities; or (C) necessary to prevent an undue
5 concentration of commercial activity that unreasonably interferes with the scenic and natural character
6 of the park.

7 **SEC. 2A.6. EXEMPTIONS.**

8 This Article 2A does not govern:

9 (a) the sale of an art or craft regulated under Article 24 (Regulating Street Artists) of the
10 Police Code; or

11 (b) the operation of, or any sale within, a Certified Farmers’ Market; or

12 (c) the operation of, or any sale within, a permitted Swap Meet.

13 **SEC. 2A.7. GOOD NEIGHBOR POLICIES.**

14 Mobile Vendors shall operate in accordance with the following good neighbor policies:

15 (a) Mobile Vendors shall be individually responsible for any garbage, detritus, or debris
16 that directly results from their Vending activity;

17 (b) Noise and odors shall be contained within the immediate area of the Mobile Vendor so
18 as not to be a nuisance to neighbors; and

19 (c) Mobile Vendors shall urge patrons to not litter and to maintain the safety, cleanliness,
20 quiet, peace, and orderliness of the area; and

21 (d) Stationary Mobile Vendors shall provide for proper and adequate storage and disposal
22 of garbage, detritus, and debris.

23 **SEC. 2A.8. ENFORCEMENT.**

24 (a) Nuisance Declaration. Any violation of this Article 2A, or any applicable Rules and
25 Regulations, constitutes a public nuisance.

1 **(b) Administrative Citation.** Any Enforcement Official may issue an Administrative
2 Citation as described below for any violation of this Article 2A, or of the Rules and Regulations that
3 interpret and implement this Article, that occurs on a public right-of-way (as that term is defined in
4 Public Works Code Section 2.4.4) or any other street, sidewalk, alley, walkway, wharf, pier, or
5 pedestrian path available to the public:

6 (1) Vending that violates a requirement in this Article or in the Rules and
7 Regulations, other than failure to possess a valid license or permit:

8 (A) An administrative fine equal to \$100 for a first violation.

9 (B) An administrative fine equal to \$200 for a second violation within twelve
10 months of the first violation.

11 (C) An administrative fine equal to \$500 for a third violation, and each
12 subsequent violation, within twelve months of the first violation.

13 (D) In addition to any other authorized enforcement activity, a Mobile Vendor's
14 license and/or permit may be revoked or suspended for the remainder of its term upon a fourth or
15 subsequent violation.

16 (2) Vending without a valid license or permit:

17 (A) An administrative fine equal to \$250 for a first violation.

18 (B) An administrative fine equal to \$500 for a second violation within twelve
19 months of the first violation.

20 (C) An administrative fine equal to \$1,000 for a third violation, and each
21 subsequent violation, within twelve months of the first violation.

22 (D) Upon submission of proof of a valid permit, the administrative fines set forth
23 in subsections (A) through (C) of this subsection (b)(2) shall be reduced to equal the administrative
24 fin es set forth in subsections (A) through (C) of subsection (b)(1), as those amounts may be revised
25 pursuant to subsection (b)(5).

1 (3) Failure to pay an Administrative Citation described in this subsection (b) shall
2 not be punishable as an infraction or misdemeanor; further, additional fines, fees, assessments, or any
3 other financial conditions beyond those authorized in this subsection (b) may not be assessed.

4 (4) When assessing an Administrative Citation authorized in this subsection (b), the
5 Director shall take into consideration the person's ability to pay the fine using the criteria described in
6 subsection (a) or (b) of California Government Code section 68632, as it may be amended. Notice
7 shall be given to the Mobile Vendor of the right to request an ability-to-pay determination and
8 instructions or other materials for requesting an ability-to-pay determination. The person may request
9 an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when
10 a case is delinquent or has been referred to a comprehensive collection program. If the Mobile Vendor
11 meets the ability-to-pay criteria, the Department shall accept 20% of the total administrative fine
12 specified in subsection (b)(1) or (b)(2), as applicable, as full satisfaction.

13 (5) The amounts of the administrative fines identified in subsections (A) through (C)
14 of subsections (b)(1) and (b)(2) shall automatically increase or decrease to the maximum amount
15 authorized under California Government Code section 51039, as it may be amended. If section 51039
16 is repealed and not replaced with a similar limitation on administrative fines, then the administrative
17 fine amounts in this Section 2A.8 may be adjusted each year, without further action by the Board of
18 Supervisors, to reflect changes in the relevant Consumer Price Index.

19 (6) Within 10 days of issuance, the Administrative Citation must be paid unless a
20 written appeal is filed with the Director. The grounds of appeal are limited to error or abuse of
21 discretion in the issuance of the Administrative Citation. The Director may make an ability-to-pay
22 determination pursuant to subsection (b)(4), but inability to pay shall not be grounds for rescinding the
23 Administrative Citation or reducing the amount required to satisfy the fine to an amount less than the
24 amount specified in subsection (b)(4). The Director may investigate the Administrative Citation and
25 any claims by the appellant, and shall issue and mail a written decision on the appeal within 30 days of

1 receipt of the written appeal. Within 20 days of the Director's decision upholding a fine in whole or in
2 part, the Administrative Citation must be paid. The method for judicial review of an Administrative
3 Citation pursuant to subsection (b)(1) is an appeal filed with San Francisco Superior Court pursuant to
4 Government Code section 53069.4.

5 (7) Collection of Fines. The failure of any person to pay a fine assessed by
6 administrative citation within the required time constitutes a debt to the City. Simple interest at 10%
7 per year shall accrue on unpaid amounts. The City may file a civil action including a small claims
8 action or may pursue any other legal remedy to collect such money.

9 (c) **Temporary Order to Cease Vending and Removal.**

10 (1) Any Enforcement Official may order a Mobile Vendor to promptly cease Vending
11 when, in the judgment of the Enforcement Official, (A) the Mobile Vendor constitutes a safety hazard,
12 including but not limited to impeding the safe use of a public right of way by pedestrians and persons
13 with disabilities, or (B) when the presence of an emergency so requires, or (C) if the Mobile Vendor is
14 unpermitted.

15 (2) (A) After the Enforcement Official orders an unpermitted Mobile Vendor to
16 cease Vending, the Mobile Vendor must discontinue any Vending and remove all Food, Merchandise,
17 and any other Vending paraphernalia from property within the regulatory jurisdiction of the Port. A
18 failure to promptly obey any such orders from an Enforcement Official is a violation of this Article 2A

19 (B) After the Enforcement Official orders a permitted Mobile Vendor to cease
20 Vending, the Mobile Vendor must discontinue any Vending and follow the orders of the Enforcement
21 Official with regard to removing and relocating all Food, Merchandise, and any other Vending
22 paraphernalia, and any other orders the Enforcement Official may give to mitigate safety hazards, and
23 no further Vending may occur until the conditions that caused the order to cease Vending have been
24 abated to the satisfaction of the Enforcement Official. A failure to promptly obey any such orders from
25 an Enforcement Official is a violation of this Article 2A.

1 (3) If a Mobile Vendor fails, within a reasonable time, to remove Food, or
2 Merchandise, or any other Vending paraphernalia from the location subject to the order to cease
3 Vending, or to follow any other orders the Enforcement Official may issue to mitigate safety hazards,
4 the Enforcement Official may order the Department to remove any or all of the items. Prior to removal
5 by the Department, the Enforcement Official shall warn the Mobile Vendor of the impending removal
6 and impoundment, and shall urge the Mobile Vendor to make every effort to remove the items, or cause
7 their removal. Where the Department actually removes any items, the Enforcement Official shall issue
8 an Administrative Citation to the Mobile Vendor. The Mobile Vendor shall pay the actual costs of
9 removal and storage of any items impounded, and of disposal of any items the storage of which may
10 cause public health, safety, or infestation issues. The Mobile Vendor may contest the liability for these
11 costs by timely appealing the Administrative Citation. However, these actual costs to the City are not
12 subject to reduction based on the ability to pay; actual costs are a debt to the City that may be collected
13 in the same manner as provided in subsection (b)(7). Mobile Vendor items that have been removed and
14 stored may be recovered within 90 days from the date of removal and upon payment of a sum equal to
15 the costs of removal, plus any reasonable transport and storage costs, as determined by the
16 Department, and any costs incurred by the Department in disposing of any items contained in the
17 Mobile Food Facility.

18 (d) **Other Violations.** Any violation of this Article 2A, or of the Rules and Regulations that
19 interpret and implement this Article, that occurs on either: any area open to the public on private
20 property, or on public property other than a Public right-of-way (as that term is defined in Public
21 Works Code section 2.4.4) or any other street, sidewalk, alley, walkway or pedestrian path available to
22 the public, may be subject to one or more of the following:

23 (1) An administrative fine as described in subsection (b).

24 (2) Civil Action.

1 (A) The Department may refer violations to the City Attorney to maintain an
2 action for injunction to restrain to cause the correction or abatement of the violation of this Article 2A,
3 and for recovery of any City department’s enforcement and abatement costs (including but not limited
4 to costs for removal, storage, impoundment, and disposal).

5 (B) The City shall be awarded its reasonable attorney’s fees and costs incurred
6 in enforcing this Article 2A.

7 **SEC. 2A.9. EXTORTION.**

8 Any extortion of a Mobile Vendor (including but not limited to extortion by a person or entity
9 who employs or facilitates Vending by the Mobile Vendor, a member of the public, or an Enforcement
10 Official), will be punishable under Section 518 of the California Penal Code and any attempted
11 extortion of a Mobile Vendor will be punishable under Section 524 of the California Penal Code.

12 **SEC. 2A.10. REPORTING REQUIRED.**

13 The Department, in consultation with the Department of Public Health, shall report to the
14 Board of Supervisors regarding the implementation of this Article 2A and any health and safety
15 enforcement actions related to Mobile Food Vendors: six months after the effective date of Article 2A;
16 annually for the first three years after the effective date of Article 2A; and once every three years
17 thereafter (see Health Code Section 452.2 (Reporting Required)).

18 **SEC. 2A.11. UNDERTAKING FOR THE GENERAL WELFARE.**

19 In enacting and implementing this Article 2A, the City is assuming an undertaking only to
20 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
21 obligation for breach of which it is liable in money damages to any person who claims that such breach
22 proximately caused injury.

23 **SEC. 2A.12. SEVERABILITY.**

24 If any section, subsection, sentence, clause, phrase, or word of this Article 2A, or any
25 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a

1 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining
2 portions or applications of the Article. The Board of Supervisors hereby declares that it would have
3 passed this Article 2A and each and every section, subsection, sentence, clause, phrase, and word not
4 declared invalid or unconstitutional without regard to whether any other portion of the Article or
5 application thereof would be subsequently declared invalid or unconstitutional.

6
7 Section 4. The Port Code is hereby amended by revising Sections 2.8, 6.3, and 6.4, to
8 read as follows:

9 **SEC. 2.8. PEDDLING AND VENDING REGULATED MERCHANDISE OR PRINTED**
10 **MATERIAL.**

11 (a) No person shall may Vend (as that term is defined in Section 2A.1 of the Port Code), or
12 bring, or cause to be brought, for the purposes of ~~Vending sale or barter, or have for sale, or sell~~
13 ~~or exchange, or offer for sale or exchange~~ any food, beverage, goods, wares, or merchandise
14 within the jurisdiction of the Commission ~~in any park~~ without first having obtained a permit (in
15 accordance with Article 2A of the Port Code), or a concession, license, or lease from the
16 Executive Director.

17 (b) The Commission, Executive Director, or designee may adopt Rules and Regulations
18 applicable to all Vending on property under the jurisdiction of the Commission, in accordance with
19 Section 2A.5 of the Port Code.

20 (c) Any Vending in violation of this Section 2.8, Article 2A Port Code, or any Rules and
21 Regulations adopted by the Commission, Executive Director, or designee shall be subject to the
22 enforcement provisions in Section 2A.8 of the Port Code.

23 **SEC. 6.3. PERMITS REQUIRED.**

24 No person shall, without a permit, perform any of the following acts in any park:

25 * * * *

1 (C) Vend Food or Merchandise unless in accordance with Section 2.8 and Article 2A of the
2 Port Code~~Sell or offer for sale books, newspapers, periodicals, or other printed material.~~

3 * * * *

4 (J) ~~Sell or provide~~Provide food to persons, except that no permit is required when a
5 person participating in a picnic or social gathering of 25 or fewer persons provides food to
6 others who are also participating in the picnic or social gathering.

7 * * * *

8 **SEC. 6.4. ADDITIONAL ACTIVITIES REQUIRING PERMITS.**

9 (A) Attention is called to other provisions of this Code which require persons
10 engaging in certain activities to obtain a permit, including, but not limited to, the following

11 * * * *

12 ~~(2) — Bringing, or causing to be brought, for the purposes of sale or barter, or having~~
13 ~~for sale, or selling or exchanging, or offering for sale or exchange any food, beverage, goods, wares or~~
14 ~~merchandise;~~

15 ~~(23)~~ Constructing or maintaining any building, structure, tent or any other thing
16 in any park that may be used for housing accommodations or camping;

17 ~~(34)~~ Remaining in any park for the purpose of sleeping between the hours of
18 10:00 p.m. and 6:00 a.m. in order to provide security services between said hours in any park.

19 * * * *

20
21 Section 5. The Public Works Code is hereby amended by revising Sections 184.80,
22 184.82, 184.85, 184.86, and 184.88, to read as follows:

23 **SEC. 184.80. DEFINITIONS.**

24 For the purpose of this Article 5.8, the following words and phrases mean and include:

25 * * * *

1 **Mobile Food Facility.** Any vehicle or ~~pushcart~~ other motorized conveyance used in
2 conjunction with a commissary or other permanent food facility upon which food is sold or
3 distributed at retail. Mobile Food Facility does not include a "Transporter" used to transport
4 packaged food from a food facility or other approved source to the consumer. A Mobile Food
5 Facility does not include any use that sells goods, wares, or merchandise other than food or
6 drink intended for human consumption. For purposes of this Article, ~~a pushcart or a mobile~~
7 ~~caterer~~ are both referred to as a Mobile Food Facility unless specifically stated otherwise.

8 * * * *

9 ~~**Pushcart.** Any wagon, cart, or any other food serving device, whether stationary or movable,~~
10 ~~wherein or wherefrom any food or foodstuffs are sold, served, distributed, offered, for sale at retail, or~~
11 ~~given away to the public, whether consumed at said pushcart or elsewhere.~~

12 ~~**Pushcart Peddler.** Any person or entity engaged in the business of operating a pushcart within~~
13 ~~the City and County of San Francisco.~~

14 * * * *

15 **SEC. 184.82. EXCLUSIONS.**

16 * * * *

17 (b) A ~~Pushcart Peddler~~ Mobile Food Facility Vendor who applies for and receives a
18 permit from BART for operation of a ~~Pushcart~~ Mobile Food Facility at the 16th St. and 24th St.
19 BART stations and the street level plazas adjacent thereto shall not be required to obtain a
20 permit from the Director for that Location, and shall be exempt from the fee, application, and
21 hearing procedures provided for in this Article for that Location. The ~~Pushcart Peddler~~ Mobile
22 Food Facility Vendor, however, shall be subject to the provisions set forth in Sections 184.91,
23 184.92, and 184.94.

24 (c) When an application for a permit to operate a ~~Pushcart~~ Mobile Food Facility is
25 filed with BART, BART shall inform the Director of Health so that the Director of Health may

1 make an investigation into the applicant's proposed Mobile Food Facility. In order to operate
2 the ~~Pushcart~~ Mobile Food Facility, the ~~Peddler~~ Mobile Food Facility Vendor shall first obtain an
3 annual Certificate of Sanitation from the Director of Health and pay Department of Public
4 Health fees as set forth in Section 184.83.

5 **SEC. 184.85. REGULATING MOBILE FOOD FACILITY LOCATIONS.**

6 * * * *

7 (c) Notwithstanding the locational requirements of ~~§~~ subsection (b)(1), if a ~~Pushcart~~
8 ~~Peddler~~ Mobile Food Facility Vendor has a valid permit for a specific Location dated as of July
9 19, 1995, said ~~Peddler~~ Mobile Food Facility Vendor is exempt from ~~§~~ subsection (b)(1)(B) and
10 the Director may issue an exception to ~~§~~ subsection (b)(1)(A) for such ~~Peddler~~ Mobile Food
11 Facility Vendor as long as the permitted pedestrian passage satisfies applicable federal and
12 State access requirements.

13 * * * *

14 **SEC. 184.86. MOBILE FOOD FACILITIES, MAXIMUM PERMISSIBLE.**

15 * * * *

16 (b) If a ~~Pushcart~~ ~~Peddler~~ Mobile Food Facility Vendor has seven or more valid permits
17 for specific Locations dated as of July 19, 1995, said permits shall not be counted toward the
18 maximum permissible number of Facilities in ~~§~~ subsection (a).

19 **SEC. 184.88. NOTICE OF INTENT; APPEAL OF PROTEST OR DENIAL OF**
20 **PERMIT.**

21 (a) * * * *

22 (4) ~~(A)~~ If the Mobile Food Facility is a Mobile Caterer, notice shall be given
23 within a Noticed Area. For purposes of this ~~§~~ subsection (a)(4), "Noticed Area" shall be defined
24 as all buildings within a 75-foot radius from the outer perimeter of the proposed Location(s) to
25 be served. For purposes of measuring this distance, a Mobile Caterer shall be assumed to

1 occupy 20 linear feet of curbside area. The 75-foot radius shall be measured from the outer
2 boundaries of this assumed curbside area. Notice also shall be provided to all properties
3 across the street that directly front, in whole or in part, the Noticed Area. Notice also shall be
4 posted on a City-owned utility pole or other City facility closest to the proposed Mobile
5 Caterer's proposed Location for at least 10 calendar days prior to the close of the period to
6 request a Departmental hearing. The applicant shall photograph the posted notice, including a
7 date stamp, and submit such photograph to the Department. Such photograph shall satisfy
8 this posting requirement.

9 ~~————— (B) If the Mobile Food Facility is a Pusheart, notice shall be given within a 300~~
10 ~~foot radius of the boundaries of the street address(s) in front of which the Pusheart will be located. If~~
11 ~~there is no street address, the notice shall be given within a 300 foot radius of the boundaries of the~~
12 ~~Assessor's Block(s) and Lot(s) in front of which the Pusheart will be located.~~

13 * * * *

14
15 Section 6. The Police Code is hereby amended by revising Section 660.2, and deleting
16 Sections 864 through 870, as follows:

17 **SEC. 660.2. UNLAWFUL SOLICITATION.**

18 * * * *

19 (h) No individual shall engage in sales solicitations for charitable purposes by
20 means of selling goods, products, services, or merchandise on the public sidewalks:

21 (1) Within five feet of any of the following:

22 * * * *

23 (b) A person Vending Food, and/or Merchandise, ~~peddling goods, products~~
24 ~~or services~~ pursuant to a permit issued under Article 2A of the Port Code ~~Article 17.3 or Article 13~~

25

1 ~~of the San Francisco Police Code, Article 5 of the San Francisco Public Works Code, or any other~~
2 ~~provision of the San Francisco Charter or San Francisco Municipal Code.~~

3 * * * *

4 (j) No individual shall engage in sales solicitations for charitable purposes by
5 means of selling clothing, jewelry, or any other goods, products, services or merchandise in
6 any area of the City ~~and County of San Francisco~~ unless that person obtains the appropriate
7 ~~peddling~~ permit pursuant to ~~Articles 13, 17.3 or Article~~ 24 of the ~~San Francisco~~ Police Code ~~or~~
8 ~~Article 2A of the Port Code~~. This ~~subsection (j)~~Section shall not apply to the sale of books,
9 pamphlets, buttons, bumperstickers, posters or any other type of item that has no intrinsic
10 value or purpose other than to communicate a message.

11 * * * *

12 ~~**SEC. 864. REGULATING PEDDLERS IN FRONT OF CERTAIN ENTRANCES.**~~

13 ~~*It shall be unlawful for any peddler, huckster, or vendor of fish, vegetables, fruit, game, poultry,*~~
14 ~~*groceries, produce, dairy products, wood, candy, confectionery, racing tips and handicaps, tickets to*~~
15 ~~*entertainments, excursions to picnics, goods, wares and merchandise, to solicit patronage or to sell his*~~
16 ~~*wares in front of any entrance, exit or gangway of any ferry landing, wharf, depot, theater, circus, hall*~~
17 ~~*or any place where people are assembled, within 12 feet thereof.*~~

18 ~~**SEC. 864.1. PENALTY.**~~

19 ~~*Any person who shall violate the provisions of Section 864 of this Article shall be guilty of an*~~
20 ~~*infraction or a misdemeanor. If charged as an infraction, the penalty shall be as follows:*~~

21 ~~*A. — Upon a first conviction thereof, such person shall be punished by a fine not to be less*~~
22 ~~*than \$50 nor to exceed \$500.*~~

23 ~~*B. — Upon a second conviction thereof, such person shall be punished by a fine not to be less*~~
24 ~~*than \$250 nor to exceed \$500.*~~

1 C. — Upon a third conviction thereof, such person shall be punished by a fine not to be less
2 than \$400 nor to exceed \$500.

3 If charged as a misdemeanor, the penalty therefor shall be by imprisonment in the County Jail
4 not exceeding six months or a fine not exceeding \$500. The complaint charging such violation shall
5 specify whether the violation charged is a misdemeanor or an infraction.

6 **~~SEC. 869. PERMIT REQUIRED.~~**

7 Except as provided in Articles 24, 24.1 and 24.2 of this Code, it shall be unlawful for any
8 person to peddle goods, wares or merchandise, or any article, material or substance, of whatsoever
9 kind, including persons selling fruits, vegetables, fish, fowl, nuts and eggs on the public streets or
10 sidewalks of the City and County of San Francisco without first having obtained a permit from the
11 Chief of Police and having paid the fees and been granted a license as required by law.

12 Excluded from the provisions of this Section are property under the jurisdiction of the
13 Recreation and Park Commission of the City and County of San Francisco, and the Board of Education
14 of the City and County of San Francisco and areas designated by the Board of Supervisors as places
15 where a street artist certified pursuant to initiative Ordinance 483-75, Proposition L on the November
16 4, 1975 ballot, may sell, offer for sale, expose for sale, or solicit offers to purchase any craft or work of
17 his or her own creation.

18 Every person currently holding a peddler permit pursuant to Section 869 of this Article prior to
19 the effective date of this ordinance is hereby deemed to be holding a permit as required under this
20 Section.

21 **~~SEC. 869.1. PENALTY.~~**

22 (a) — Any person who shall violate the provisions of Sections 869 through 869.15 of this
23 Article shall be guilty of an infraction or a misdemeanor. If charged as an infraction, the penalty shall
24 be as follows:

1 ~~—— (1) — Upon a first conviction thereof, such person shall be punished by a fine not to be~~
2 ~~less than \$50 nor to exceed \$500.~~

3 ~~—— (2) — Upon a second conviction thereof, such person shall be punished by a fine not to~~
4 ~~be less than \$250 nor to exceed \$500.~~

5 ~~—— (3) — Upon a third conviction thereof, such person shall be punished by a fine not to~~
6 ~~be less than \$400 nor to exceed \$500.~~

7 ~~If charged as a misdemeanor, the penalty therefor shall be by imprisonment in the County Jail~~
8 ~~not exceeding six months or a fine not exceeding \$500. The complaint charging such violation shall~~
9 ~~specify whether the violation charged is a misdemeanor or an infraction.~~

10 ~~(b) — In addition to the penalty set forth above in Section 869.1(a), any person who shall~~
11 ~~violate any provision of Sections 869 through 869.15 shall be subject to revocation or suspension of~~
12 ~~any permit issued by the City and County, following adequate notice and a hearing before the Chief of~~
13 ~~Police or a designate.~~

14 ~~**SEC. 869.2. LIMITATIONS ON ISSUANCE OF PERMITS.**~~

15 ~~(a) — The Chief of Police may issue a permit for a location, which location shall not be within~~
16 ~~two blocks or 600 feet, whichever is greater, of an established business which sells the same type of~~
17 ~~food or other merchandise as intended by said applicant, or of any location previously established and~~
18 ~~currently being operated by a licensed peddler selling the same type of food or other merchandise as~~
19 ~~intended by said applicant.~~

20 ~~(b) — This ordinance does not apply to those peddlers and street artists regulated by Articles~~
21 ~~24, 24.1 and 24.2 of this Code.~~

22 ~~**SEC. 869.3. LOCATION RESTRICTIONS.**~~

23 ~~The Chief of Police may issue a peddler permit only when he finds that the following location~~
24 ~~and time requirements are met:~~

25 ~~(a) — The location shall:~~

1 ~~———— (1) — Leave unobstructed for pedestrian passage on any sidewalk a space not less than~~
2 ~~10 feet wide.~~

3 ~~———— (2) — Not occupy a space extending more than 4½ feet from the curb line of any~~
4 ~~sidewalk, nor wider than four feet nor extending more than five feet above the sidewalk.~~

5 ~~———— (3) — Not be within 18 inches of the curb line of any sidewalk.~~

6 ~~———— (4) — Not be closer than 7½ feet from sprinkler inlets, and wet and dry standpipe~~
7 ~~inlets, measured from the outer edge of the standpipe bank from the building line to the sidewalk edge.~~

8 ~~———— (5) — Not be within 12 feet of the outer edge of any entrance way to any building or~~
9 ~~facility used by the public including but not limited to doors, driveways and emergency exits measured~~
10 ~~in each direction parallel to the building line and thence at a 90 degree angle to the curb.~~

11 ~~———— (6) — Not be on any sidewalk adjacent to a curb which has been duly designated~~
12 ~~pursuant to local ordinance or regulation as a white, yellow, blue, or red zone, or a bus zone.~~

13 ~~———— (7) — Not be within five feet of any crosswalk or fire hydrant.~~

14 ~~———— (8) — Leave unobstructed fire escapes, underneath and perpendicular from the~~
15 ~~building to the street, five feet from both ends of the fire escape.~~

16 ~~———— (9) — Not be within five feet of inflammable liquid vents and fill pipes when tanks are~~
17 ~~not being filled nor within 25 feet while tanks are being filled.~~

18 ~~(b) — No peddler shall peddle goods, wares or merchandise between the hours of 12:00 a.m.~~
19 ~~(midnight) and 6:00 a.m. the following day.~~

20 ~~(c) — Notwithstanding any other provision of this Code, no peddler or pushcart peddler, as~~
21 ~~defined in Section 1330 of the San Francisco Police Code, shall peddle goods, wares or merchandise:~~

22 ~~———— (1) — In any "P" district, as defined in Section 234 of the City Planning Code (Part II,~~
23 ~~Chapter II, San Francisco Municipal Code), located on Twin Peaks or in any areas in or adjacent to~~
24 ~~Open Space Districts located on Twin Peaks.~~

25 ~~———— (2) — On the north side of Jefferson Street between Jones and Taylor.~~

1 **~~SEC. 869.4. PEDDLER PERMIT TO NATURAL PERSON ONLY.~~**

2 ~~No peddler permit granted pursuant to Section 869 of this Article shall be issued except to an~~
3 ~~individual natural person and in no event to any business, firm, partnership or corporation. No more~~
4 ~~than one permit shall be issued to any one person.~~

5 **~~SEC. 869.5. PEDDLER TO PERSONALLY PEDDLE.~~**

6 ~~No person shall be granted a peddler permit pursuant to Section 869 of this Article unless the~~
7 ~~applicant has declared under penalty of perjury his or her intention to personally operate under the~~
8 ~~permit for at least 50 percent of the actual hours of operation.~~

9 **~~SEC. 869.6. LOG TO BE MAINTAINED.~~**

10 ~~Every person who shall be granted a peddler permit pursuant to Section 869 of this Article shall~~
11 ~~maintain a log on a form approved by the Chief of Police indicating the day, date and hours of~~
12 ~~operation at the authorized location, including the name of the person or persons operating during~~
13 ~~those times. The log for the 30 previous calendar days shall be kept in the possession of the peddler or~~
14 ~~peddler employee at all times while operating and shall be open to inspection by any police officer or~~
15 ~~any Health Department inspector of the City and County of San Francisco. Said log shall be retained~~
16 ~~by the peddler for a period of one year.~~

17 **~~SEC. 869.7. APPLICATION FOR PEDDLER PERMIT.~~**

18 ~~Every person desiring a peddler permit pursuant to Section 869 of this Article shall file an~~
19 ~~application with the Chief of Police upon a form provided by the Chief of Police requiring the applicant~~
20 ~~to submit:~~

21 ~~(a) — Two photographs of the applicant 1"×1" in size.~~

22 ~~(b) — A statement of the specific location where the applicant proposes to operate, the days of~~
23 ~~the week, and time(s) of the day of intended operation, and the specific item or items to be sold, which~~
24 ~~shall be the only item(s) sold under the permit.~~

25 ~~(c) — A set of fingerprints as required by the Chief.~~

1 ~~(d) — Such other relevant information deemed pertinent by the Chief of Police.~~

2 ~~**SEC. 869.8. INSPECTION BY HEALTH DEPARTMENT.**~~

3 ~~No permit to peddle food products for human consumption in the City and County of San~~
4 ~~Francisco shall be granted unless the applicant has been issued a Certificate of Sanitation by the~~
5 ~~Director of Public Health.~~

6 ~~**SEC. 869.9. PEDDLER EMPLOYEE.**~~

7 ~~No peddler may employ at any one time more than one peddler employee. The only exception to~~
8 ~~this prohibition is employment by a peddler of persons who have peddler employee permits authorizing~~
9 ~~employment by that peddler, which permits were issued prior to the effective date of this ordinance.~~
10 ~~Every person desiring a peddler employee permit shall file an application with the Chief of Police upon~~
11 ~~a form provided by said Chief of Police. Application shall be accompanied by:~~

12 ~~(a) — Signed statement from the permittee peddler verifying his intention to employ the~~
13 ~~applicant, and indicating specific location where the peddler employee will peddle.~~

14 ~~(b) — Two photographs of the applicant 1"×1" in size.~~

15 ~~(c) — A set of fingerprints as required by the Chief of Police.~~

16 ~~(d) — Such other relevant information deemed pertinent by the Chief of Police.~~

17 ~~**SEC. 869.10. OPERATION OF PEDDLER EMPLOYEE.**~~

18 ~~In no case shall the peddler employee operate, at the same time as the permit holder is~~
19 ~~operating, at any location other than the location at which the permit holder is operating.~~

20 ~~**SEC. 869.11. FEES — PEDDLER AND PEDDLER EMPLOYEE.**~~

21 ~~Every applicant for a peddler or peddler employee permit shall pay a filing fee as specified in~~
22 ~~Section 2.26 of Part II, Chapter VIII of the San Francisco Municipal Code (Police).~~

23 ~~**SEC. 869.12. PEDDLERS, PEDDLER EMPLOYEES, LICENSE FEE.**~~

24 ~~Every person granted a peddler permit or peddler employee permit to peddle goods, wares or~~
25 ~~merchandise, or fish, vegetables or fruit, or food products for human consumption, or any other article~~

1 *in any manner, shall pay to the Tax Collector an annual license fee. The license fee shall be paid*
2 *annually on or before March 31, in accordance with the provisions of Section 76.1 of the Business and*
3 *Tax Regulations Code. In calculating the fees earned herein by the Health Department pursuant to the*
4 *provisions of Section 6.402 of the Charter of the City and County of San Francisco, a percentage of the*
5 *license fee shall be credited to the Health Department pursuant to the annual determination by the*
6 *Controller as provided by Section 2.21 of this Code.*

7 ***SEC. 869.13. LICENSE FEES – PRORATION SCHEDULE – DATE PAYABLE.***

8 *All licenses issued under the provisions of Section 869.12 shall be due and payable, on a*
9 *calendar year basis, prorated with regard to the calendar year on a monthly basis.*

10 ***SEC. 869.14. PEDDLERS, FREE.***

11 *The Tax Collector may issue a free or gratuitous license to a person liable to pay the license tax*
12 *required by Section 869.12 and set by Section 2.27 of this Code when the Chief of Police shall have*
13 *certified that it has been shown by good and sufficient evidence that the person applying for said*
14 *license was a soldier, sailor or marine of the United States who received an honorable discharge or a*
15 *release from active duty under honorable conditions from such service or that he or she is physically*
16 *and absolutely unfitted to earn a livelihood by any other means.*

17 ***SEC. 869.15. IDENTIFICATION CARD.***

18 *The Chief of Police shall issue to each peddler and peddler employee an identification card*
19 *which shall contain a photograph of the permittee with the number of the permit in figures plainly*
20 *discernible. The Chief of Police shall determine the manner and form of any other information that may*
21 *be placed upon this identification card. Such identification card shall be in the possession of the*
22 *peddler or peddler employee at all times while operating, and shall be immediately produced upon*
23 *request to any police officer or Health Department inspector. Peddlers and peddler employees shall*
24 *return to the Police Department the identification card upon discontinuance of operation, revocation or*
25 *suspension of permit, or upon termination of the peddler employee.*

1 **~~SEC. 869.16. RULES AND REGULATIONS BY CHIEF OF POLICE OR DIRECTOR OF~~**
2 **~~PUBLIC HEALTH.~~**

3 ~~The Chief of Police or the Director of Public Health may adopt, after a noticed public hearing,~~
4 ~~rules and regulations supplemental to this ordinance and not in conflict therewith. The rules and~~
5 ~~regulations shall become effective 10 days following the adoption by either the Chief of Police or the~~
6 ~~Director of Public Health.~~

7 **~~SEC. 869.17. SUSPENSION AND REVOCATION OF PERMIT.~~**

8 ~~The Chief of Police may suspend or revoke any peddler or peddler employee permit if he finds,~~
9 ~~after a noticed public hearing, that any of the following conditions exist:~~

10 ~~(a) — Fraud, misrepresentation or false statement contained in the application for permit.~~

11 ~~(b) — Violation of provisions of this Article or the San Francisco Municipal Code regarding~~
12 ~~peddling.~~

13 ~~(c) — Peddling by a peddler employee at a location not approved by the Chief of Police.~~

14 ~~(d) — Conviction of a felony if the crime was committed during the time the permittee was~~
15 ~~working under the permit or relates to the business conducted under the permit and endangers the~~
16 ~~health and safety of the public.~~

17 ~~(e) — Violations of provisions of the Municipal Traffic Code or the California Vehicle Code,~~
18 ~~relating to the operation of the permit.~~

19 ~~(f) — Conduct violating any City ordinance or state statute which conduct occurred during the~~
20 ~~time the permittee was working under the permit or which conduct relates to the business conducted~~
21 ~~under the permit and endangers the health and safety of the public.~~

22 ~~(g) — Failure to pay the required license fee.~~

23 ~~(h) — Operation under the peddler's permit of a business other than that for which the permit~~
24 ~~was issued.~~

25 **~~SEC. 869.18. SEVERABILITY.~~**

1 ~~If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Article or~~
2 ~~any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of~~
3 ~~competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining~~
4 ~~portions of this Article or any part thereof. The Board of Supervisors hereby declares that it would~~
5 ~~have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof~~
6 ~~irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences,~~
7 ~~clauses or phrases be declared unconstitutional or invalid or ineffective.~~

8 **~~SEC. 870. PEDDLING WHERE SIGN "NO PEDDLERS" DISPLAYED PROHIBITED.~~**

9 ~~It shall be unlawful for any peddler, or any person pretending to be a peddler, for the purpose~~
10 ~~of selling or pretending to sell, goods, wares or merchandise, or any article, material or substance of~~
11 ~~whatsoever kind, to ring the bell or knock at the door of any residence or dwelling whereon a sign~~
12 ~~bearing the words "No Peddlers" or words of similar import, is painted or affixed so as to be exposed~~
13 ~~to public view, or to peddle or pretend to peddle goods, wares or merchandise, or any article, material~~
14 ~~or substance, of whatsoever kind, in any building, whereon, or wherein a sign bearing the words "No~~
15 ~~Peddlers," or words of similar import, is painted or affixed so as to be exposed to public view~~

16
17 Section 7. The Administrative Code is hereby amended by revising Sections 94.3 and
18 94A.7, to read as follows:

19 **SEC. 94.3. REGULATIONS FOR CITY PLAZAS.**

20 * * * *

21 (d) The following operational requirements shall apply to City Plazas and shall be
22 posted in a prominent location in each City Plaza:

23 (1) ~~**Peddling and Vending Merchandise.**~~ No person shall bring, or cause to be
24 brought, for the purposes of sale or barter, or have for sale, or sell in exchange, or offer for
25 sale or exchange any goods, wares, or merchandise in the City Plaza, except for which the

1 City and County of San Francisco issues any required permit or other authorization.

2 Notwithstanding the above provision, the sale or distribution of newspapers, periodicals, or
3 other printed or otherwise expressive material is allowed subject to the applicable
4 requirements of the Public Works Code.

5 * * * *

6 **SEC. 94A.7. OPERATIONAL REQUIREMENTS.**

7 * * * *

8 (b) **Operational Requirements.**

9 * * * *

10 (2) ~~*Peddling and Vending Merchandise.*~~ No person shall bring, or cause to be
11 brought, for the purposes of sale or barter, or have for sale, or sell in exchange, or offer for
12 sale or exchange any goods, wares, or merchandise in the People Place unless the City has
13 issued any required permit or other authorization. Notwithstanding the previous sentence, the
14 sale or distribution of newspapers, periodicals, or other printed or otherwise expressive
15 material is allowed subject to the applicable requirements of the Public Works Code.

16 * * * *

17
18 Section 8. The Business and Tax Regulations Code is hereby amended by revising
19 Section 1.36, to read as follows:

20 **SEC. 1.36. ~~PEDDLING~~VENDING.**

21 For ~~*Vending peddling*~~ – by the ~~*Police Department*~~Port of San Francisco; subject to the
22 approval of the Public Health Department for food Vending, if applicable ~~*peddlers*~~(See Article 2A
23 of the Port Code).

1 Section 9. The Health Code is hereby amended by adding Section 452.2 and revising
2 Section 714, to read as follows:

3 **SEC. 452.2. REPORTING REQUIRED.**

4 The Department of Public Health, in consultation with the Port of San Francisco, shall report to
5 the Board of Supervisors regarding the implementation of Article 2A of the Port Code and any health
6 and safety enforcement actions related to Mobile Food Vendors: six months after the effective date of
7 Article 2A of the Port Code; annually for the first three years after the effective date of Article 2A of the
8 Port Code; and once every three years thereafter (see Port Code Section 2A.10 (Reporting Required)).

9 **SEC. 714. PERMIT REQUIRED.**

10 Every person, firm, partnership, or corporation maintaining, conducting, or operating a
11 kennel, pet shop, pet hospital, refuse collection truck, or swill truck ~~or peddler wagon, except~~
12 ~~those peddler wagons used for peddling as defined in Sections 132, 132.2 and 132.5 of Part III of the~~
13 ~~San Francisco Municipal Code~~, shall obtain prior to the commencement of operation a permit
14 from the Department of Public Health. ~~Every person, firm, partnership or corporation subject to a~~
15 ~~license fee provided for in Sections 132, 132.2 and 132.5 of Part III of the San Francisco Municipal~~
16 ~~Code shall obtain from the Department of Public Health a Certificate of Sanitation for each cart or~~
17 ~~vehicle used therefor.~~

18 **Permit Conditions.** The permit provided in this Section (714) shall set forth the
19 commercial uses permitted and shall be valid until suspended or revoked. Said permit shall
20 not be transferable and shall be deemed revoked upon sale, transfer, or assignment of the
21 commercial use for which the permit was issued.

22 * * * *

1 Section 10. The Transportation Code is hereby amended by revising Section 6.6, to
2 read as follows:

3 **SEC. 6.6. TEMPORARY USE OF STREETS FOR STREET FAIRS.**

4 * * * *

5 (k) **Authorization to Sell Goods; Unauthorized Sales.** The sponsor of a street fair
6 shall determine which individuals or organizations may sell goods or merchandise on a street
7 that has been closed for the purposes of conducting a street fair, provided, however, that such
8 authorization shall not be withheld on the basis of the race, sex, religion, creed, national
9 origin, or sexual orientation of the person seeking such authorization. Individuals seeking to
10 sell goods or merchandise in a street that has been closed for the purpose of a street fair
11 without the authorization of a sponsor may be cited ~~for violating San Francisco Police Code~~
12 ~~Section 869 (peddling without a permit)~~. Nothing in this Section shall be construed to deprive the
13 Department of Public Health of its authority to determine that foods or beverages may be sold.

14 * * * *

15
16 Section 11. Effective Date. This ordinance shall become effective 30 days after
17 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
18 ordinance unsigned, or the Mayor does not sign the ordinance within ten days after receiving
19 it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

20
21 Section 12. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
22 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
23 numbers, punctuation, charts, diagrams, or any other constituent part of the Administrative,
24 Business and Tax Regulations, Health, Park, Police, Port, Public Works, and Transportation
25 Codes that are explicitly shown in this legislation as additions, deletions, Board amendment

1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

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5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7

8 By: /s/
9 JUSTIN D. BIGELOW
Deputy City Attorney
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REVISED LEGISLATIVE DIGEST

(Substituted, 6/15/2021)

[Various Codes - Mobile Vendor Regulation]

Ordinance adopting regulation of vending within the jurisdiction of the Port of San Francisco, requiring permits, and authorizing permit fee and enforcement actions in the Port Code; requiring the Port and the Department of Public Health to report to the Board of Supervisors about regulatory implementation and health and safety enforcement; amending provisions of the Port and Public Works Codes, and repealing peddler regulations in the Police Code, to comply with state law regarding sidewalk vending; amending provisions of the Administrative, Business and Tax Regulations, Health, and Transportation Codes to conform with state law and new Port Code regulations regarding vending; and adopting findings under the California Environmental Quality Act.

Existing Law

Police Code Sections 864 through 870 regulate “peddlers,” requiring permits and authorizing police enforcement via criminal infractions and misdemeanors. Public Works Code Article 5.8 (Sections 184.80 *et seq.*) establishes the Department of Public Works’ regulatory program for mobile food facilities, including regulation of pushcarts. Senate Bill (SB) 946 (effective January 1, 2019) constrains local regulation of the time, place, and manner of sidewalk and street vending, and also prohibits criminal penalties to enforce local regulations.

Amendments to Current Law

The Ordinance would repeal all peddler regulations in the Police Code and create a new regulatory program in the Port Code for street and sidewalk vendors (“mobile vendors”) vending within the jurisdiction of the Port of San Francisco that would require permits to vend food, merchandise, or both; authorize a permit fee, rules and regulations to govern the time, place, and manner of vending, and enforcement methods including administrative citations and impoundment. The Ordinance would regulate mobile vendors of food, merchandise, or both. The Ordinance would remove pushcart regulations from the Public Works Code to comply with SB 946. The Ordinance would not alter food safety regulations, but requires the Port and Department of Public Health to report to the Board of Supervisors regarding enforcement and implementation. The Ordinance includes technical amendments to the Administrative, Business and Tax Regulations, Health, Port, Public Works, Police, and Transportation Codes to conform with the repeal of peddler regulations in the Police Code.

Background Information

Police Code peddler regulations have not been enforced since the effective date of SB 946 (January 1, 2019).

FILE NO. 210566

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